

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-03-DT-021
Ronald E. Sauer)	
)	NAL/Acct. No. 200332360006
Bedford Heights, Ohio)	
)	FRN: 0008-9043-36

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: May 6, 2003

By the District Director, Detroit Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Ronald E. Sauer, ("Sauer"), licensee of amateur radio station WE8E, Bedford Heights, Ohio, has apparently violated Sections 97.101(d), 97.113(a)(4) and 97.119(a) of the Commission's Rules ("Rules")¹. Respectively, these sections require that no amateur operator shall willfully or maliciously interfere with or cause interference to any radio communications or signal; no amateur station shall transmit music; and each amateur station must transmit its assigned call sign. We conclude that Sauer is apparently liable for a forfeiture in the amount of twelve thousand dollars (\$12,000).

II. BACKGROUND

2. On January 24, 2003, the Detroit Office received information that deliberate jamming to a Canadian amateur net operation was occurring daily on the frequency 7.055 MHz. The complaint also indicated that bearings tentatively put the source of the jamming in the Canton, Ohio area. On January 25, 2003, and January 26, 2003, the FCC's High Frequency Direction Finding ("HFDF") Group observed music being played and deliberate jamming occurring on 7.055 MHz. The long distance direction finding bearings that the HFDF Group obtained indicated that the source of the music and jamming was emanating from a station operating in the Cleveland, Ohio area, near the intersection of Interstate 480 and Interstate 77.

3. On January 28, 2003, an agent from the Detroit Office observed a station deliberately jamming and playing music on the frequency of 7.055 MHz.

4. On January 30, 2003, the Detroit Office received information indicating that deliberate jamming had occurred on this date. The information also said that the interference was emanating from an amateur radio station located at 23260 Cannon Road, Bedford Heights, Ohio, licensed to amateur radio operator, Ronald E. Sauer, WE8E.

¹ 47 C.F.R. §§ 97.101(d), 97.113(a)(4) and 97.119(a).

Federal Communications Commission

5. On January 31, 2003, an agent from the Detroit Office was dispatched to further investigate the source of the deliberate jamming occurring on 7.055 MHz. The agent heard music being played and deliberate jamming occurring on the frequency of 7.055 MHz. Using radio direction finding techniques, at approximately 3:20 P.M., the agent located the source of the interference emanating from 23260 Cannon Road, Bedford Heights, Ohio. The agent conducted an inspection, and Ronald E. Sauer, an amateur radio operator, license WE8E, admitted that he had been playing music and deliberately jamming the frequency of 7.055 MHz. He further admitted to jamming and playing music on this frequency on previous days.

III. DISCUSSION

6. Section 97.101(d) requires that no amateur operator shall willfully or maliciously interfere with or cause interference to any radio communications or signal. Section 97.113(a)(4) requires that no amateur station shall transmit music using a phone emission, except as specifically provided elsewhere in this section. Section 97.119(a) requires that each amateur station, except a space station or telecommand station, must transmit its assigned call sign on its transmitting channel at the end of each communication, and at least every 10 minutes during a communication, for the purpose of clearly making the source of the transmissions from the station known to those receiving the transmissions. No station may transmit unidentified communications or signals, or transmit as the station call sign, any call sign not authorized to the station.

7. Based on the evidence before us, we find that Sauer willfully² and repeatedly³ violated Section 97.101(d) for an amateur radio operator willfully or maliciously causing interference to radio communications; Section 97.113(a)(4) for transmitting music from his amateur radio station and Section 97.119(a) for failure to transmit the station identification of his amateur station. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")⁴, sets the base forfeiture amount at \$7,000 for causing interference, \$4,000 for transmitting unauthorized emissions and, \$1,000 for failure to provide station identification. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a twelve thousand dollar (\$12,000) monetary forfeiture is warranted.

IV. ORDERING CLAUSES

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

⁴47 C.F.R. § 1.80.

Federal Communications Commission

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311 and 1.80 of the Rules⁵, Ronald E. Sauer is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twelve thousand dollars (\$12,000) for willful and repeated violation of Sections 97.101(d), 97.113(a)(4) and 97.119(a) of the Rules.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty (30) days of the release date of this NOTICE OF APPARENT LIABILITY, Sauer SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200332360006, FRN: 0008-9043-36.

11. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE the NAL/Acct. No. 200332360006, FRN: 0008-9043-36 .

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁶

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have any questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990

⁵ 47 C.F.R. §§ 0.111, and 0.311.

⁶ See 47 C.F.R. § 1.1914.

Federal Communications Commission

15. IT IS FURTHER ORDERED THAT this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Ronald E. Sauer, 23260 Cannon Road, Bedford Heights, Ohio 44146.

FEDERAL COMMUNICATIONS COMMISSION

James A. Bridgewater
District Director
Detroit Office, Enforcement Bureau

Attachment A – FCC List of Small Entities, October 2002